

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT BOOKER II,

Plaintiff,

v.

CONOCOPHILLIPS COMPANY, a Delaware  
corporation, HARLAN GRAFF, LUTHER  
NOLAN, and TOM MILLER;

Defendants.

No. C 07-384-CW

ORDER RE:  
DEFENDANTS'  
MOTION FOR  
SUMMARY JUDGMENT

On March 13, 2008, Plaintiff Robert Booker filed an opposition to Defendants' motion for summary judgment. Two declarations were filed in support of that motion, one by Plaintiff and one by Plaintiff's counsel. In their reply brief, Defendants have identified several problems with these declarations.

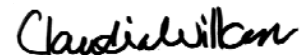
(1) Plaintiff's declaration is neither signed under penalty of perjury nor is there a statement that the contents of the declaration are true. Therefore, Plaintiff's current declaration shall be stricken from the record (Docket No. 41). Within one day of the date of this order, Plaintiff shall e-file a declaration that complies with the requirements of 28 U.S.C. § 1746. If Plaintiff does not do so, the Court will not consider the evidence contained in the declaration or the supporting exhibit when

1 deciding Defendant's motion for summary judgment.

2 (2) Plaintiff has not e-filed exhibits seventeen through  
3 twenty-one to the declaration of Waukeen Q. McCoy. Defendants  
4 present evidence that they informed Plaintiff's counsel of the  
5 missing documents on March 14, 2008, but counsel has not remedied  
6 the deficiency. The Court notes that all of the exhibits missing  
7 from the declaration were documents in Defendants' control or  
8 transcripts of depositions, which Defendants presumably have.  
9 Therefore, Defendants have not been prejudiced by the omission.  
10 Nonetheless, it is Plaintiff's duty to ensure that the electronic  
11 record is complete. His failure to do so, in light of the fact  
12 that he has been notified of the deficiency, is troubling. Within  
13 one day of the date of this order, Plaintiff shall e-file exhibits  
14 seventeen through twenty-one to the declaration of Waukeen Q.  
15 McCoy. If Plaintiff does not do so, the Court will not consider  
16 any argument by Plaintiff based on the evidence contained in those  
17 exhibits in deciding Defendant's motion for summary judgment.

18 IT IS SO ORDERED.

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20 Dated: 3/28/08



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CLAUDIA WILKEN  
United States District Judge